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Gregory J. Lavorgna
Drinker Biddle & Reath LLP
One Logan Square, 18th and Cherry Sts.
Philadelphia, PA 19103-6996

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| In re Application of | : | |
| BUNTAIN (deceased) | : | |
| Application No.: 10/530,072 | : | |
| PCT No.: PCT/IB03/04606 | : | DECISION ON |
| Int. Filing Date: 01 October 2003 | : | PAPERS UNDER 37 CFR 1.42 |
| Priority Date: 01 October 2002 | : | |
| Attorney Docket No.: 8830-330(2084212) | : | |
| For: RIB FOR A WALL CONSTRUCTION | : | |

This decision is issued in response to applicant's Renewed Submission under 37 CFR 1.42 and Request for Reconsideration" filed 21 June 2006. No petition fee is required.

BACKGROUND

On 01 October 2003, applicant filed international application PCT/IB03/04606, which claimed a priority date of 01 October 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 April 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 April 2005.

On 31 March 2005, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment, and an unexecuted declaration.

On 28 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 28 February 2006, applicant filed a declaration executed by Christina Stevens Buntain on behalf of deceased inventor, Christopher Charles MacIntosh Buntain. In a Decision dated 15 May 2006, applicant's request was refused.

On 21 June 2006, applicant filed the present renewed request under 37 CFR 1.42.

DISCUSSION

In response to the "Decision on Papers under 37 CFR 1.42" mailed 15 May 2006, counsel states "the residence, citizenship, and post office address provided in the declaration filed on February 28, 2006 are clearly those of the individual (Christina Stevens Buntain) who executed the declaration . . . There is no requirement in 37 CFR 1.497(b)(2) to indicate a citizenship, former residence or former mailing address for a deceased inventor in addition to the residence, citizenship, and post office address of the individual identified as legal representative."

37 CFR 1.497(b)(2) states the following:

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

37 CFR 1.497(b)(2) requires that citizenship, mailing address, and residence information be provided for the legal representative. The regulation expressly requires the inclusion of this information for the legal representative. As for the deceased inventor, such information is required because the legal representative must declare to all the facts which the inventor would have been required to state, and citizenship, residence and mailing address are among the facts which the inventor would have been required to set forth pursuant to 37 CFR 1.497(a) and 37 CFR 1.63. (It is noted that 37 CFR 1.63(c)(1) states that the declaration must identify the mailing address of . . . each inventor, if an application data sheet has not been provided in accordance with 37 CFR 1.76)


Here, the declaration does not comply with 37 CFR 1.497(b)(2), discussed above, in that it does not include the citizenship of the deceased inventor (such information is provided for the legal representative, as also required). Because the declaration filed February 28, 2006 does not provide all the information required by 37 CFR 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.42 and 1.497.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Anthony Smith

Attorney-Advisor

Office of PCT Legal Administration

Tel: (571) 272-3298

Fax: (571) 273-0459